

- c. the Court and its officers.
3. Each person entitled to access to Confidential Material or information derived therefrom pursuant to this Protective Order shall be bound by the terms of this Protective Order.
 4. If plaintiff objects to the designation of any Confidential Material as "Confidential," she shall state the objection by writing to counsel for First Unum. If the parties are then unable to resolve the objection, any party may move the Court to do so. Until the Court rules on any such motion, the Confidential Material shall continue to be treated as Confidential Material under the terms of this Protective Order.
 5. The parties shall use their best efforts to preserve the confidentiality of any document, portion thereof, or other Confidential Material covered by this Protective Order that is filed with the Court ~~or presented at a hearing, trial or other proceeding in this action.~~ In particular, if either party intends to file Confidential Material with the Court, that party shall either: (i) file that Material under seal; or (ii) give the party that has produced the Confidential Material thirty days' notice of intent to file the Confidential Material. *any application to protect the confidentiality of documents or information at trial shall be made to the trial judge.*
 6. In the event that any person or party subject to this Protective Order having possession, custody or control of any Confidential Material or any party receives from a non-party a subpoena or other process or order to produce such information, such person or party shall immediately send notice and a copy of said subpoena, process or order by hand delivery to the attorneys of record of the party producing such Confidential Material. The party producing the Confidential Material shall have the burden of defending against such subpoena, process or order.

7. Within sixty (60) days after termination of this Action, plaintiff's counsel and any experts retained by counsel shall return all Confidential Material to counsel for First Unum, or, in lieu thereof, certify in writing that such Confidential Material has been destroyed.
8. Entering into, agreeing to and/or producing or receiving materials or otherwise complying with the terms of this Protective Order shall not:
 - a. prejudice in any way the rights of any party to object to authenticity or admissibility into evidence of any document covered under the terms of this Protective Order; or
 - b. prejudice in any way the rights of a party to seek a Court determination whether such material should be subject to the terms of this Protective Order.
9. Any party may move the Court for a modification of this Protective Order at any time upon notice to all parties.
10. This Protective Order shall remain in force and effect until modified, superseded, or terminated by consent of all parties or by order of the Court made upon motion, with notice.

Dated: Bronxville, New York
July 22, 2009


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SO ORDERED, 8/7/09



U.S.M.J.

Debra Freeman
United States Magistrate Judge
Southern District of New York